

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

WINDY CITY INNOVATIONS, LLC,)	
a Delaware Company)	Civil Action No. 04-4240
)	
Plaintiff,)	
)	Judge Samuel Der-Yeghiayan
v.)	
)	
AMERICA ONLINE, INC.,)	
a Delaware Corporation (now known as AOL LLC))	
Defendant.)	

**JOINT MOTION TO VACATE CERTAIN PRIOR ORDERS, OPINIONS AND
JUDGMENTS AND DISMISS CASE WITH PREJUDICE**

The parties, Windy City Innovations, LLC (“Windy City”) and America Online, Inc. (now known as AOL LLC) (“AOL”), jointly move pursuant to Rule 60(b) for an Order vacating certain prior orders, opinions and judgments and dismissing this case with prejudice.

On February 15, 2007, the United States Court of Appeals for the Federal Circuit returned this action to this Court on a limited remand to allow this Court to consider the parties’ joint request under Fed. R. Civ. P. 60(b) for vacatur of certain of this Court’s prior orders and judgments. Subsequently, the parties jointly requested this Court to state whether it would, upon a full remand, vacate its July 29, 2005 order and opinion on claim construction (Docket Nos. 149 and 150), its December 8, 2005 summary judgment order and opinion (Docket Nos. 228 and 229) and its May 3, 2006 judgment (Docket No. 252). On March 12, 2007, this Court entered an Order indicated that it would so vacate these prior orders, opinions and judgments, stating:

Having considered the matter, the Court concludes that the vacatur requested by the parties is appropriate under F.R.C.P. 60(b). The vacatur would conserve judicial resources, both at the Federal Circuit and district court level, and would conserve the resources of the parties because the matter would be fully resolved without the necessity of any further action on the part of the parties or the court,

Accordingly, pursuant to the Federal Circuit's Order, the Court hereby indicates that it is willing to GRANT a joint motion by the parties for vacatur and dismissal with prejudice pursuant to F.R.C.P. 60(b) and will in fact enter an Order vacating the prior orders and dismissing this case with prejudice once this case has been remanded in its entirety and the joint motion filed by the parties.

On April 3, 2007, the Federal Circuit entered an order remanding this case in its entirety to this Court to allow this Court to enter final judgment consistent with its stated intentions. Accordingly, the parties jointly and respectfully request that this Court, consistent with the stated reasons and intentions of this Court's March 12, 2007 Order, enter an Order:

- (1) vacating the July 29, 2005 Order and Opinion on claim construction (Docket Nos. 149 and 150);
- (2) vacating the December 8, 2005 summary judgment Order and Opinion (Docket Nos. 228 and 229);
- (3) vacating the May 3, 2006 judgment (Docket No. 252);
- (4) dismissing with prejudice Windy City's complaint for patent infringement; and
- (5) dismissing with prejudice AOL's counterclaims for patent invalidity and unenforceability.

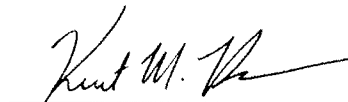
A proposed order is submitted herewith.

Respectfully submitted on April 20, 2007 by:

For Plaintiff:

s/ Peter J. McAndrews
George P. McAndrews
Peter J. McAndrews (#6226954)
MCANDREWS, HELD & MALLOY, LTD.
500 West Madison, 34th Floor
Chicago, Illinois 60661
(312) 775-8000

For Defendant:



David A. Nelson
Kurt M. Rogers
LATHAM & WATKINS, LLP
Sears Tower, Suite 6500
233 South Wacker Drive
Chicago, IL 60606
(312) 876-7700

**ATTORNEYS FOR PLAINTIFF,
WINDY CITY INNOVATIONS, LLC**

**ATTORNEYS FOR DEFENDANT,
AMERICA ONLINE, INC. (now known as
AOL LLC)**